

**INTERVIEW SUMMARY**

Applicants wish to thank Examiner Chevalier for the helpful and courteous discussion with Applicants' Representative on August 16, 2004. During this discussion it was noted that the relief in the substrate of the present invention is limited to two levels by the use of the phrase "consisting of." Even if additional relieves were added to the substrate based on the transitional phrase "a substrate, comprising", the substrate would still have areas with the two level relief. Azzopardi et al fails to disclose or suggest a relief having two levels.

**REMARKS**

Claims 1-63 are active in this application. Claims 19-26 and 32-60 stand withdrawn from consideration as being drawn to non-elected subject matter.

Applicants respectfully request reconsideration of the application, as amended, in view of the following remarks.

The present invention as set forth in **Claim 1** relates to a substrate, comprising:

a relief;

wherein **said relief consists of a low surface level and a high surface level**,

said low surface level and said high surface level being separated by a height not less than 1/10 of the dimensions of a plurality of motifs forming said high level, and

said high surface level representing 1 to 65% of a surface of the substrate.

The Examiner has agreed that Azzopardi et al (U.S. 6,299,981, the English equivalent of FR 2, 756,276) has **three height levels** instead of two as claimed (Office Action of July 23, 2004, page 4, lines 12-14).

However, a controversy exists as to the interpretation of the claim language of the present invention. The Examiner argues that because of the phrase "A substrate, comprising:" it is irrelevant that Azzopardi et al disclose a third level.

However, the relief in the substrate of the present invention is limited to two levels by the use of the phrase "consisting of." Applicants wish to draw the Examiner's attention to *Mannesmann Demag Corp. v. Engineered Metal Products Co.*, 793 F.2d 1279, 230 USPQ 45 (Fed. Cir. 1986):

When the phrase "consists of" appears in a clause of the body of a claim, rather than immediately following the preamble, it limits only the element set forth in that clause; other elements are not excluded from the claim as a whole."

See also MPEP 2111.03 which discusses the scope of transitional phrases.

Accordingly, the claimed relief itself is limited to two levels.

Moreover, even if additional relieves were added to the claimed substrate, the claimed substrate would still require a relief with the two levels. However, Azzopardi et al fail to disclose or suggest a relief having two levels. In there reference there is only a relief with three levels.

Further, the substrate of the present invention has excellent hydrophobic properties as shown by the angles of advance and retreat shown in the Table at page 11 of the specification. Notably, advancing angles as high as 170 degrees and retreating angles as high as 155 degrees can be achieved. There is no disclosure or suggestion in Azzopardi et al that such excellent hydrophobic properties can be achieved with two height levels.

Therefore, the rejection of Claims 1-18, 27,28-31 and 61-63 under 35 U.S.C. § 102(b) as anticipated by Azzopardi et al is believed to be unsustainable as the present invention is neither anticipated nor obvious and withdrawal of this rejection is respectfully requested.

In regard to **non-elected Claims 19-26 and 32-60**, Applicants note that should Claim 1 found allowable, these Claims should be allowable as well as they relate to methods of making the substrate of Claim 1 and directly or indirectly depend on Claim 1.

Application No. 09/926,367

Reply to Office Action of: July 23, 2004

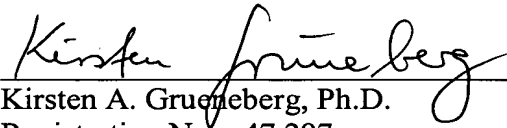
This application presents allowable subject matter, and the Examiner is kindly requested to pass it to issue. Should the Examiner have any questions regarding the claims or otherwise wish to discuss this case, he is kindly invited to contact Applicants' below-signed representative, who would be happy to provide any assistance deemed necessary in speeding this application to allowance.

Respectfully submitted,

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**22850**

A handwritten signature in cursive script, reading "Kirsten Grueneberg", is written over a horizontal line.

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